

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

AB 527 DOE,

ANSWER

Plaintiff,

Index No.: 811025/2021

v.

CITY OF BUFFALO,

Defendant.

Defendant City of Buffalo, by their attorney Christopher R. Poole, Esq., Assistant Corporation Counsel, *of Counsel* to Timothy A. Ball, Esq., Corporation Counsel, for its Answer to Plaintiff's Complaint ("Complaint"), upon information and belief alleges as follows:

1. Deny knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs 1-3, 5-12, 27-29, 36, 40, 45, 53, 59, 65, and 67 of the Complaint and respectfully refers all questions of law to the Court.

2. Deny the allegations contained in paragraphs 13-26, 30-35, 37-39, 41-44, 46-52, 54-58, 60-64, 66, and 68-71 of the Complaint.

3. Admit the allegation contained in paragraph 4.

4. Deny each and every allegation of the Complaint not hereinbefore specifically admitted, denied or otherwise controverted.

**AS AND FOR A FIRST DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

5. The Complaint, in whole or in part, fails to state a cause of action and should be dismissed.

**AS AND FOR A SECOND DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

6. Some or all of the causes of action are barred by the doctrine of laches.

**AS AND FOR A THIRD DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

7. Plaintiff's Complaint is barred, in whole or in part, by the doctrine of waiver and estoppel.

**AS AND FOR A FOURTH DEFENSE TO PLAINTIFF'S COMPLAINT
THE DEFENDANT ALLEGES:**

8. Some or all of the causes of action in Plaintiff's Complaint have not been brought within the time prescribed by the applicable Statute of Limitations.

**AS AND FOR A FIFTH DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

9. Plaintiff fails to plead with specificity in compliance with N.Y. C.P.L.R. R. 3014 and R. 3016.

**AS AND FOR A SIXTH DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

10. The alleged injuries suffered by the Plaintiff were not proximately caused by any actions of this answering Defendant.

**AS AND FOR A SEVENTH DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

11. The imposition of punitive damages would violate this answering Defendant's right to due process and equal protection under the Fifth and Fourteenth Amendment of the United States Constitution and relevant New York Constitution.

**AS AND FOR AN EIGHTH DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

12. Plaintiff's complaint fails to allege facts sufficient to justify an award of punitive or exemplary damages.

**AS AND FOR A NINTH DEFENSE TO THE COMPLAINT,
THE DEFENDANT ALLEGES:**

13. The amount of any judgment in favor of the Plaintiff must be reduced by the amount they have received or will receive from any collateral source, as provided by CPLR 4545(a).

**AS AND FOR A TENTH DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

14. If Plaintiff has suffered and damages as alleged in the Complaint, this answering Defendant cannot be held vicariously liable for these damages because they arose from the conduct which was outside the course and scope of accused teacher's job.

**AS AND FOR AN ELEVENTH DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

15. Upon information and belief, the Complaint is barred, in whole or in part, upon the grounds of any sovereign, governmental, or qualified immunity available to municipalities in tort actions in the State of New York, and any additional defense, the existence of which may become known to it through further investigation and/or discovery in connection with this action.

**AS AND FOR A TWELFTH DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

16. The Plaintiff may have failed to comply with one or more conditions precedent to commencing and maintaining this lawsuit against a municipality.

**AS AND FOR A THIRTEENTH DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

17. Any claim by Plaintiff is barred to the extent that the Child Victims Act (New York Laws 2019, ch. 11, Sec. 2, eff. 2/14/2019; N.Y. C.P.L.R. Section 208) is found to violate the United States Constitution and/or relevant New York State constitutional law.

**AS AND FOR A FOURTEENTH DEFENSE TO PLAINTIFF'S COMPLAINTS,
THE DEFENDANT ALLEGES:**

18. Plaintiff has failed to name a necessary party to this action.

**AS AND FOR A FIFTEENTH DEFENSE TO PLAINTIFF'S COMPLAINT,
THE DEFENDANT ALLEGES:**

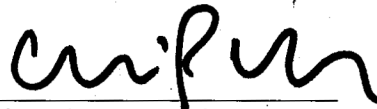
19. Defendant had no actual or constructive notice of the allegations brought forth in Plaintiff's Complaint.

PRAYER FOR RELIEF

WHEREFORE, Defendant request judgment dismissing Plaintiff's Complaint, together with such other and further relief as the Court deems appropriate.

Dated: September 2, 2021
Buffalo, New York

TIMOTHY A. BALL, ESQ.
Corporation Counsel



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